A Guide to the Legislative Process - **Acts and Regulations**

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INTRODUCTION

Choosing the Right Tools to Accomplish Policy Objectives[1]

Not all "problems" need to be solved by legislation (Acts or Regulations). Legislation should be used only when it is the most appropriate, i.e. when there is no other way to achieve the policy objectives effectively.

Officials should focus on achieving a desired outcome, rather than assuming that a particular instrument, particularly an Act or regulation, will be effective. This involves determining the objectives and how these objectives can best be accomplished.

The range of possible instruments available to accomplish policy objectives is very broad, allowing the Government to choose the type and degree of its intervention, if any.

An Act or regulation should only be chosen after assessing the full range of possible instruments, including legislation.

What instruments are available to accomplish the desired results?

These types of instruments can be grouped into the following categories:

Information

- Information can be a powerful tool. People act on the basis of the information available to them. By giving them specific information, it may be possible to influence their behaviour.

Capacity Building

Capacity-building increases the ability of people or organizations to do things that advance policy objectives. It goes beyond providing information to include transferring to them the means for developing their ability through the holding of or providing funding for seminars, educational programs, and other similar programs.

Rules

Rules, in the broadest sense, guide behaviour by telling people how things are to be done. However, there are many different types of rules. For example, they differ in terms of how they influence behaviour:

- Acts, regulations or directives tend to apply to groups of people and have legal force in that they can be enforced by the courts;
- contracts or agreements also have legal force, but they generally apply only to those who are parties to them;
- guidelines, voluntary codes or standards and self-imposed rules usually apply to groups of people, but they do not have legal force, relying instead on their persuasive or moral value

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Organizational Structure

Organizational structure is often critical in accomplishing policy objectives. It generally supports the use of other instruments by providing for their administration. Examples of organizational instruments include:

- departmental or agency structures to deliver programs;
- framework agreements and partnerships with other governments or organizations;
- privatization or commercialization of government services;
- public investment in private enterprises.

Combination and Timing of Instruments

These instruments are not necessarily stand-alone alternatives to one another. In fact, many of them are mutually supportive or otherwise interrelated

Another important dimension of the range of available instruments is timing. Some instruments are better used in the initial stages of policy implementation while others may only be needed later if circumstances warrant

What effect would the instruments have?

This question involves assessing how the instruments would work.

Do not assume that a legal prohibition or requirement would, by itself, stop people from doing something or make them do it.

Which instruments should be chosen?

The final step is to choose the instruments that would be most effective in achieving the policy objective. It is important to realize that a single instrument is seldom enough. Usually a combination of instruments is required, often in stages with different combinations at each stage.

If in the end an Act or regulation is required, this document should be reviewed to determine the process for having an Act or regulation enacted and also to determine the roles and responsibilities of the client, the client's lawyer and the Legislative Counsel Office.

ROLES AND RESPONSIBILITIES IN THE PREPARATION OF LEGISLATION

Summary: This Part deals with the roles and responsibilities of the various officials who are involved in developing legislation. These include officials from the client department, the lawyers from the Department of Justice who provide legal advice to that department and the legislative drafter from the Legislative Counsel Office.

Generally speaking, the following apply to both the drafting of bills and of regulations.

Client Department

Developing legislative policy, preparing drafting instructions and seeing a bill or regulation through the process can be a difficult and challenging task for a client department.

The process works most efficiently if the client department

- assigns a person who is knowledgeable in the area of legislative development to be the "contact person" or "instructing officer", and

- provides good drafting instructions.

Contact Person\instructing officer

The contact person\instructing officer should be

- at a senior level in the client department and have ready access to the Deputy Minister and the Minister (more important when drafting bills), be able to make decisions on his or her own or be able to get decisions made quickly (essential if time is an issue),

- be directly involved in the policy development work that takes place within the client department in anticipation of preparing (1) if required, a legislative proposal for the consideration of Standing Policy Committee (SPC) and Caucus, and (2) drafting instructions for the Legislative Counsel Office,

- be familiar with the procedures and requirements of SPC and Caucus to be able to effectively obtain approval for the legislative proposal,

- if the proposal is large or significant, be someone with project management skills who is assigned on a full-time basis,

- be able to provide the necessary support to the drafter and ensure that the draft accurately reflects the policy that the department wishes to implement. The person must be able to read drafts carefully and critically, be able to see what works and what doesn't work in a draft and generally must have a "feel" for reading drafts.

Preparing Drafting Instructions

The creation of good drafting instructions does not begin with the preparation of the instructions in written form. Rather, it begins with a thorough analysis of the problem and a clear understanding of the proposed legislative solution and potential impacts of that solution. Sometimes the drafting stage is reached only to discover that these important steps have been omitted. The entire process is made easier if this work is done before the drafting instructions are formulated.

The initial drafting instructions should provide a good solid base for the drafter's understanding of the proposal.

Contents of Drafting Instructions

Drafting instructions should

- contain sufficient background information to allow the drafter to understand the facts and the problems that the legislation is intended to deal with. If a law reform agency or an advisory group suggested the proposed law, a copy of the report or a reference to it should be included. If the proposed law arises out of an error or a problem in the law that was pointed out in a court judgment or a legal opinion, a copy of the judgment or opinion should be included. All relevant legal cases and legal advice and opinions should be included or referred to, whether or not they agree with the view favoured by the client department

- set out comprehensively the objectives intended to be achieved. The instructions should include any relevant reason that explains why a new provision is needed or why an existing provision should be amended or repealed.

- set out how the objectives are to be achieved:

  How will the proposed law work in practice?

  What powers and duties will be required?

  To whom is the legislation intended to apply? Will some persons be exempt from the proposed scheme? Should the legislation bind the Government?

  Will there be authority to make regulations? If so, what are the regulations intended to do?

  What other enforcement provisions might be necessary (search and seizure powers, etc.)?

  Are transitional provisions necessary? If so, what types of transitional rules are to be set out?

- describe foreseeable implications and difficulties, whether legal, administrative or social.

- if any matters are unresolved, indicate what they are and when they will be resolved.

- refer to the experience and legislation in other jurisdictions that might be useful for the drafter.

- indicate any other Alberta statutes or regulations that might need to be amended as a result of the proposal.

- if the proposed law will take the form of amending legislation indicate the sections that must be amended, where known.

- if another department is affected, indicate whether that other department has been consulted.

- if the legislation contains financial provisions, indicate whether the Department of Finance has been consulted.

- suggest penalties for any offences created by the legislation and indicate any other enforcement provisions required, for example, administrative penalties, licence suspensions, etc.

- indicate when the legislation is to come into force; on Royal Assent, by Proclamation or on a specific date? Is there any need to make the legislation retroactive? Is there any need for a "sunset" provision?

Form of Instructions

Instructions should be in writing and may be in the form of a narrative statement or may take the form of a draft. The submission of a department's draft by a client department is not a substitute for proper instructions. If a draft is submitted, it should include an explanation concerning the purpose of each provision, and it should be understood that the Legislative Counsel Office is responsible for the draft and must itself decide (with appropriate explanations to the client department) on the appropriate structure and wording.

Difficulties that can arise with drafting instructions in the form of a draft are that the drafter must construe and interpret the draft. This can lead to misunderstandings as to the desired intent. Further problems can arise if the draft has previously been circulated to other persons and discussed before being submitted to the Legislative Counsel Office. Those persons may expect that the final draft will closely resemble the circulated version, when it likely won't. Also, certain words or phrases can become sacrosanct because they were agreed on during the discussions. They often turn out to represent agreement on words only and not on the real issues. This can tie the hands of both the drafter and the client department.

Client's Lawyer

Generally, the client's lawyer is a lawyer in the Civil Law Branch of the Department of Justice. If the "client" proposing legislation is an agency that has it's own lawyers then the following apply to them also.

The role of the client's lawyer is not to develop the policy or determine what the policy should be but to give legal advice on proposed legislative and non-legislative policy solutions.

When asked, the client's lawyer will provide legal help to explore the objectives of the proposed legislation, to think through the problems and to determine what is legally permissible. The first question the lawyer will help the client determine is whether legislation is needed at all. Sometimes policy can be

carried out without a law. Is there already a law in place that could be used? What are the pros and cons of law as opposed to other methods that might achieve the same goal?

If a law is needed, it is the role of the client's lawyer and the legislative drafter to assist the client department with the legal aspects of the policy and assess the workability of the proposed scheme, while ensuring that final decision-making rests with the client.

Drafts of proposed draft Bills are automatically sent to the Civil law Branch in the event the client's lawyer has not been previously involved. This will give the client's lawyer an opportunity to know what is going on and if the lawyer has any concerns can advise his or her client and\or the legislative drafter of those concerns.

The Legislative Counsel Office

The Legislative Counsel Office is responsible for drafting all Government Bills and regulations in Alberta.

The Legislative Counsel Office considers the policy that a client department intends will become law to determine whether and how it can be implemented, to express that policy in clear and effective language, to ensure that the policy is enacted in a form that is consistent with other Alberta legislation, that legal and administrative issues are resolved and that government decision-makers are aware of provisions in proposed legislation that affect fundamental principles of fairness.

Specific Responsibilities

In more specific terms, the Legislative Counsel Office, through the drafter assigned,

(a) assists with the legal aspects of policy development and in assessing the practicability of the scheme

During the policy development stage of a new law, the client department usually needs legal help to explore the objectives, think its way through the problems and determine what is workable and legally permissible. Legal help at this stage is most often provided by the client's lawyer. However, there are circumstances where the Legislative Counsel Office is asked for its advice and input.

(b) decides on a structural framework and helps the client department to "fill in the details"

The drafter decides, in collaboration with the client department, on the best structural framework for the law. For example, how is the material best organized to ensure that the law is readable and most easily understood? Is an amendment appropriate or are the proposed changes to the law so substantive that a new Act is needed? In addition, the drafter will help the client to fill in the details of the proposal -- by asking questions about how the law is to work in practice, how it is to be enforced, what sanctions are to apply, etc. The drafter will be able to provide advice on how these matters have been handled in other statutes.

(c) ensure that the proposed law is worded consistently with other Alberta laws, is not in conflict with other laws

(d) advises on potential problem areas

The drafter will raise a number of questions in the drafting process, including questions like the following:

- does the proposed law comply with fundamental principles of fairness? For example, does it contain unusual powers of entry or search and seizure, expropriate without compensation or otherwise infringe on individual freedoms in an exceptional way?

- does the proposed law contain unusual offence or penalty provisions that should be referred to the Criminal Justice Division of the Department of Justice for comment?

- if the proposed law is retroactive and will adversely affect rights or impose liabilities are there exceptional circumstances that warrant retroactivity and is the retroactivity narrowly confined to the specific circumstances that require it?

- are substantive legal matters absent from the law and left to be determined by the regulations or in some other way?

- are the courts excluded from decision-making in which they would normally be involved?

- is a considerable degree of administrative discretion conferred on officials in a way that may attract criticism in the Legislative Assembly?

(e) assists the client department to think through enforcement issues

The drafter helps the client department decide on how the proposed law can best be enforced, usually with reference to enforcement schemes in other provincial statutes. Is a criminal-like sanction necessary? Should a specific civil remedy be provided? Are special provisions needed to deal with evidence in the courts? In addition to advice form the client's lawyer, assistance is often sought from the Criminal Division of the Department of Justice.

(f) points out potential Charter of Rights and Freedoms and other constitutional issues

The drafter must consider whether a proposed law contains possible Charter of Rights and Freedoms or other constitutional problems. When necessary, it will refer proposals or drafts to the Constitutional and Aboriginal Law Branch of the Department of Justice. If a client department is aware of constitutional issues at an early stage, a referral can be made before drafting begins.

(g) raises the need for consultation with government departments that will be affected by the proposed law

The drafter advises the client department about the need to consult with other departments of government that will be affected by the proposed law. If, for example, a proposed law will be administered by another department or have a financial impact on another department, that department should be advised and given an opportunity to comment.

(h) identifies financial provisions about which the Department of Finance would wish to be consulted

The Department of Finance should be consulted about financial provisions in proposed law, including accounting and auditing requirements.

(i) raises transitional issues

One of the most difficult problems in drafting a Bill is to make sure that the proposed law does not cause hardship or confusion when it comes into force. Will it be practical and fair, for instance, for the new law to apply to circumstances already existing or is a "grandfather" clause or other transitional provision necessary?

(j) presents the draft to the Legislative Review Committee

At What Stage Should Legislative Counsel be Involved?

In the case of a proposed Bill, the Legislative Counsel will only get involved if

- the Bill is included in the Government's legislative program, or
- the Minister or Deputy Minister of the client Department has authorized the preparation of the Bill in advance of it being includes in the Government's legislative program and that there is a reasonable expectation that the Bill will be introduced in the very near future.

In the case of a regulation, no prior approval to commence drafting is required.

When Does Drafting Commence?

Generally speaking, drafting commences once the department has made its policy decisions and has prepared its instructions to Legislative Counsel. In a major or complex matter, if time permits, it may be beneficial for Legislative Counsel to be involved at an earlier stage. This will allow the Legislative Counsel to become more familiar with the subject matter and the issues.

LEGISLATIVE PROCESS - STATUTES

During June or July, the Government House Leader sends out the call for legislation for the following year's Session of the Legislature. The Government House Leader will require that each Minister complete by a specified date a "Legislation Template" for each Bill that the Minister plans on proposing. (The Legislation Template is an Executive Council form.)

The Government House Leader may also ask for the Department's 3-year legislation plan. This will give guidance as to what might be proposed in the future and would als provide a mechanism to give advance approvals on legislation so that work can commence at an earlier stage.

Following are the steps involved in getting a legislative proposal on the Government's legislative agenda and, once it is on the agenda, having it passed into law.

Getting a Proposal on the Government's Legislative Agenda

Legislation Templates

Legislation Templates are prepared for each proposed Bill. Documentation is forwarded to the Minister for approval and then forwarded to the Executive Council Office in accordance with the date requested by the Government House Leader (usually mid-September).

If the Legislation Template meets the Government's legislative direction for the Session the proposal is forwarded to Standing Policy Committee (SPC).

> **Note:** In advance of a call for legislation, a Minister may wish to submit a "Minister's Report" (MR) to have a major drafting project approved in principle. This will give the Minister some comfort in spending resources on the project knowing that the Government has an interest in it. If the MR is approved then when the project is ready to proceed, the Minister would submit a Legislation Template when the call for legislation is made.

Standing Policy Committee (SPC)

Once the Template has been referred to SPC, the proposed legislation (the 3-column document) is referred to the Department's SPC. When the Minister is prepared to go to SPC a date will be set.

SPC meetings to discuss legislation are usually held during October and November, but they do continue to meet after that, as may be required.

The Minister may request department staff to attend SPC (e.g., the staff members who are most familiar with the subject and working with the drafter on the drafting of the legislation).

At the meeting, SPC will review the proposals in the 3-column document, issue by issue, and make a recommendation on each. Therefore, it is very important that the 3-column document clearly outline each policy issue. The Legislative Review Committee (see below) may refer a draft back to SPC or Caucus if it contains proposals that were not contained in the "approved" 3-column document.

It is recommended that 3-column document should be prepared after drafting instructions have been prepared. This will ensure that no issues are left out.

Following approval by SPC, a "Standing Policy Committee Recommendation" is prepared, which states the recommendation of the committee and describes any issues that may have been left unresolved.

Drafting
Once a Legislation Template is submitted to SPC, drafting of the proposals can commence. A lawyer from the Legislative Counsel Office (drafter) will contact the departmental contact (the contact's name is to be indicated on the Legislation Template form) to get instructions for the drafting of the proposed Bill.

The time required to complete a draft is determined by the complexity of the proposal involved, the scope of the proposal, the quality of the instructions and the availability of a drafter's time. For some proposals, and subject to the consent of the Minister/Deputy Minister, staff may request a drafter to commence drafting prior to formal approval of the Legislation Template.

Caucus
Following approval by SPC, the 3-column document goes to full Caucus for approval. This is the same document that was approved by SPC. Any changes made at the SPC meeting will be noted.

Department staff continues to work with the drafter on the drafting of the legislation, incorporating the recommendations of SPC and Caucus.

Legislative Review Committee
After Caucus approval, and when the drafting of the Bill has been completed, it will go to the Legislative Review Committee (usually starting in January or February) for approval. This Committee does a final review of the draft legislation to ensure that the legal text reflects the policies that SPC and Caucus have approved.

The Cabinet Policy Coordinator coordinates the timing of the Legislative Review Committee in consultation with Legislative Counsel Office, the Minister/sponsor and the Legislative Review Committee members.

Legislative Review Committee consists of the chair of each SPC, and is chaired by the Honourable Ron Stevens. Attending at the Committee meeting are the Minister who is proposing the legislation, the Government House Leader and the drafter. If the Minister has asked a colleague to sponsor the Bill, that person attends and the Minister has the choice to attend or not to attend. It is also recommended that department staff attend; however, this is a matter for the department's Minister to determine. Often there are questions asked by Committee members that are best answered by departmental staff.

At the Legislative Review Committee meeting, the sponsor of the Bill provides a short general overview of what the Bill is intended to do. The drafter will then take the Committee through the Bill, section by section.

In taking the Committee through the draft, the drafter must indicate whether or not the policy contained in each section is consistent with the approved 3-column document.

After Legislative Review Committee approval, the Bill is given a number and printed in final form. The Government then determines when it wants to introduce the Bill.

Sponsors of Bills
Generally speaking the Minister of the Department proposing the Bill is the sponsor of the Bill. However, quite often, the Minister will ask an MLA of his or her party to carry the Bill. The decision to have an MLA sponsor the Bill can be determined at the outset or at anytime before printing of the Bill. Any Bill, except a Money Bill, may be introduced by a sponsor who is not a Minister.

A Money Bill is a Bill that expressly provides for the expenditure of money directly from the General Revenue Fund or from money that is required to be deposited in the General revenue Fund.

Passing a Bill in the Legislature

First Reading
The Bill may be introduced at least one full day after written notice is given and published in the Order Paper. For example, if written Notice is given on a Monday, the Bill can be introduced on the Wednesday. Notice can also be given orally in the Assembly the day before introduction. Bills do not have to be introduced according to their place on the Order Paper. The motion for leave to introduce a Bill is usually passed without debate. The sponsor is permitted to give a brief introductory remark on the intent of the Bill. Once leave is granted the Bill is deemed to have received First Reading.

Second Reading
At Second Reading, discussion of the principle of the Bill takes place. Before debate begins, the sponsor will give a "fairly comprehensive" statement about the Bill. The statement for Second Reading will generally outline why the Bill is needed, the objectives of the new policies and stakeholder consultation process.

Committee of the Whole
After Second Reading the Bill is referred to the Committee of the Whole, chaired by the Chair of the Committee (not the Speaker).

At this stage a clause-by-clause consideration of the Bill occurs. Members may propose amendments to the Bill, if the amendments do not add any new principles or are not destructive of the principle of the Bill that was approved at Second Reading. The amendments are commonly called "House Amendments".

The Legislative Counsel Office drafts House Amendments that are proposed by the Government, while the Parliamentary Counsel Office drafts House Amendments proposed by the Opposition. All Government amendments must be approved by Caucus and the Legislative Review Committee. In some cases it might require SPC approval.

A Bill agreed to in Committee of the Whole must be reported to the Assembly, with or without amendments. Following that, the Bill proceeds to Third Reading.

Third Reading
The Bill is considered in its final form. The length of debate will depend on how controversial the Bill might have been.

Royal Assent
No Bill may become law without Royal Assent being given by the Lieutenant Governor.

A Bill comes into force on Royal Assent if the Act doesn't provide otherwise. The Act could state that the Act or portions of it come into force on a specified date or on a date specified in a proclamation issued by the Lieutenant Governor (Order in Council required). In rare circumstances the Act can be made retroactive.

Types of Bills
The Legislative Assembly deals with 3 types of Bills.

Government Bills – These are Bills that are of general application to the public. They are introduced by the Government. Government Bills start at number 1. The process outlined in this Part applies only to these types of Bills.

Private Members' Bills – These Bills are also of general application to the public) but they are proposed by an MLA (Government party or Opposition party). However, these Bills do not represent Government policy. Each party has its own process for approving these types of bill for Introduction into the Legislative Assembly. In addition, the Speaker of the Legislative Assembly imposes some rules as to the order of introduction of these types of Bills. While the process of First, Second and Third Reading apply to these types of Bills, the amount of time allotted for their debate at each stage is fixed by the Standing Orders of the Legislative Assembly. Private Members' Bills can be identified by the numbering. Private Members' Bills start at number 201.

Private Bills – These are Bills that have application to one person or organization. The process involves individuals or organization petitioning the Legislative Assembly to have the Bill passed that would apply to them alone. There is a separate process for having these types of Bills enacted. Private Bills can be identified by the numbering. Private Bills start at Pr1.

LEGISLATIVE PROCESS - REGULATIONS

What is a Regulation?

Regulations are often referred to as delegated legislation or subordinate legislation. Laws are made by the Legislature however the Legislature can delegate its functions to other bodies or persons, hence "delegated legislation". The reference to subordinate legislation indicates that regulations are subordinate to statutes. They receive their authority from the statutes but unless authorized by the statute, they cannot be inconsistent with the statute.

The Interpretation Act defines regulation as follows:

> "regulation" means a regulation, order, rule, form, tariff of costs or fees, proclamation, by-law or resolution enacted
>
> (i) in the execution of a power conferred by or under the authority of an Act, or
>
> (ii) by or under the authority of the Lieutenant Governor in Council,
>
> but does not include an order of a court made in the course of an action or an order made by a public officer or administrative tribunal in a dispute between 2 or more persons;

While delegated legislation refers to any regulation, whether it is required to be filed under the Regulations Act or not, for the purposes of this document, the term "regulation" refers to a regulation that is required to be filed as a regulation under the Regulations Act.

If in doubt as to whether delegated legislation is a regulation that is required to be filed as a regulation under the Regulations Act, consult with the Legislative Counsel Office.

When is a regulation required to be filed as a regulation under the Regulations Act?

The Regulations Act defines regulation as follows:

> "regulation" means a regulation as defined in the *Interpretation Act* that is of a legislative nature.
>
> In order for delegated legislation to be a regulation, it must be of a legislative nature. In effect it must be law making. For example, if the delegated legislation creates rules that govern a person's conduct, it is a regulation. If the delegated legislation simply makes an appointment, it isn't a regulation. While in most instances it is clear whether or not delegated legislation is a regulation, there are some grey areas. If in doubt, consult with the Legislative Counsel Office. Generally speaking, if the statute uses the term "regulation", then it should be treated as if the Regulations Act applies.

There is authority under the Regulations Act to exempt a regulation from the application of the Regulations Act. This is only used in exceptional circumstances.

Who may make regulations?

As mentioned above, any person or body to whom the Legislature has delegated the authority to make a regulation may make a regulation.

Generally speaking, the Legislature delegates law-making powers to the Lieutenant Governor in Council or to a Minister; however, sometimes boards, commissions, councils or even individuals are delegated the authority.

> **Orders in Council** – An order in Council is the instrument by which the Lieutenant Governor in Council (the Lieutenant Governor acting on the advice of Cabinet) makes its orders. It may or may not be a regulation. It depends if it is of a legislative nature.
>
> **Ministerial Orders** – A Ministerial Order is the instrument by which a Minister makes a formal order. This formal order may or may not be a regulation. It depends if it is of a legislative nature.
>
> **Board Orders** –A Board Order is the instrument by which a Board makes a formal order. This formal order may or may not be a regulation. It depends if it is of a legislative nature.

Effect of not filing under the Regulations Act

If delegated legislation is required to be filed, and it isn't, the delegated legislation has no effect. In law, it's as if it were never made. This is why it is so important to determine if the Regulation Act applies. In "grey areas", the Legislative Counsel recommends that it be filed, so as not to take any chances.

Requirement to publish

Once the regulation is filed, the Legislative Counsel Office will arrange to have it published in Part 2 of the Alberta Gazette. This is supposed to be done within 30 days after filing. Once it is published, persons affected by it are deemed to be bound by the regulation. However until it is filed, only persons who have actual notice of the regulation are bound by it.

Registrar's refusal to file

Under the regulations under the Regulations Act, the Registrar of Regulations can refuse to file a regulation if

- the regulation has not been reviewed before it was made by the Registrar or a person designated by the Registrar,
- the Registrar is of the opinion that the regulation or any part of it does not conform to the drafting practices of the Legislative Counsel Office, or
- a certificate of compliance, if required, has not been issued for that regulation by the Regulatory Review Secretariat.

Process

If a department wishes to have a regulation drafted, it should contact the Registrar of Regulations as soon as possible in order to ensure that enough time can be allotted for the drafting. There is no formal documentation required in order to have the drafting commence.

Drafting

Drafting will commence once the department has provided its instructions to the Registrar of Regulations. Instructions can be in the form of a draft or a narrative. If a draft is provided, make sure that there is an explanation given for each section. If a draft is provided it should be understood that the draft serves as instructions only, and that the draft may be changed substantially as drafting proceeds.

Timing

Make sure that there is sufficient time to draft your proposal. Regulations required during session will require more time since the drafter in the Legislative Counsel Office will be concentrating on drafting Bills.

Do not submit a Recommendation for Order in Council (ROC) until the drafting has been completed and do not refer the proposal to SPC without first discussing it with the Legislative Counsel Office. SPC requires a final draft of regulations, which must be submitted at least one week before the SPC meeting.

Regulatory Reform

Under the Regulatory Reform initiative, the Chair of the Regulatory Review Secretariat reviews all proposed regulations except those that are on the list of excluded regulations approved by the Chair. All proposed regulations that are to be reviewed by the Chair are required to have a Regulation Impact Report (RIR) prepared in respect of the proposed regulation unless the regulation is minor or does not regulate. If the Chair is satisfied with the RIR or is satisfied that the proposed regulation is minor or does not regulate, the Chair will issue a compliance certificate. The Registrar will refuse to file a regulation under the Regulations Act unless the regulation has a compliance certificate or it is on the list of excluded regulations.

If you think that a proposed regulation is minor or does not regulate, contact the Chair of the Regulatory Review Secretariat early in the drafting process to determine whether an RIR is required.